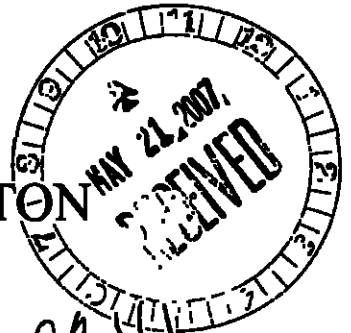




Rob McKenna

ATTORNEY GENERAL OF WASHINGTON

Transportation & Public Construction Division
PO Box 40113 • Olympia WA 98504-0113 • (360) 753-6126



May 18, 2007

VIA FEDERAL EXPRESS

ENTERED
Office of Proceedings

MAY 21 2007

Part of
Public Record

Mr Vernon A Williams, Secretary
Surface Transportation Board
395 E Street, S W.
Washington, DC 20024

**Re: Finance Docket No. 35024, State of Washington, Dept. of Transportation –
Acquisition Exemption – Palouse River and Coulee City Railroad, Inc.**

Dear Secretary Williams.

Enclosed for filing in the above-captioned proceedings are an original and ten copies of the **Petition to Partially Revoke Class Exemption and Expedite Effective Date**, dated May 18, 2007. Please note that expedited consideration of this Petition is requested

A check in the amount of \$200, representing what we believe may be the appropriate fee for this filing, is attached. If the Petition is deemed to be a "related filing" to the notices of exemption previously filed by the parties (and for which the required filing fees were paid), such that no additional fee is required, we request that the Board return the check or refund the \$200 fee. In a telephone conversation with you and Mr Rudy St Luis earlier this week, you both indicated to me that this filing is likely a related filing covered by 49 C.F.R. §1002.2(d)(1)(i)

One extra copy of the Petition and this letter also are enclosed. I would request that you date-stamp those items to show receipt of this filing and return them to me in the provided envelope.

If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance on this matter.

Respectfully submitted,

Mark S. Lyon
Assistant Attorney General

MSL:lms
Enclosures

cc Parties on Dec of Service

FILED

MAY 21 2007

**SURFACE
TRANSPORTATION BOARD**

BEFORE THE

SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35024

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

--ACQUISITION EXEMPTION--

PALOUSE RIVER AND COULEE CITY RAILROAD, INC.

**PETITION TO PARTIALLY REVOKE CLASS EXEMPTION AND
EXPEDITE EFFECTIVE DATE**

EXPEDITED CONSIDERATION REQUESTED

FEE RECEIVED

MAY 21 2007

**SURFACE
TRANSPORTATION BOARD**

ENTERED
Office of Proceedings

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Public Record

MARK S LYON

Assistant Attorney General

Office of the Attorney General

7141 Cleanwater Drive SW

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(360) 586-0641

Attorney for WASHINGTON STATE

DEPARTMENT OF TRANSPORTATION

Dated: May 18, 2007

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35024



WASHINGTON STATE DEPARTMENT OF TRANSPORTATION
--ACQUISITION EXEMPTION--
PALOUSE RIVER AND COULEE CITY RAILROAD, INC.

**PETITION TO PARTIALLY REVOKE CLASS EXEMPTION AND
EXPEDITE EFFECTIVE DATE**

The Washington State Department of Transportation ("WSDOT"), an agency of the state of Washington, hereby petitions the Board pursuant to 49 U.S.C. § 10502(d) to partially revoke the class exemptions at 49 C.F.R. § 1150.31, *et seq.* as necessary to allow the notices of exemption to acquire certain physical assets and operating rights of eight (8) rail lines and the underlying rights-of-way from the Palouse River and Coulee City Railroad, Inc. ("PCC") filed by WSDOT to become effective on June 1, 2007. An expedited effective date will avoid a gap in critical rail service on an 108-mile branch line in the State of Washington that is being purchased from its current short-line owner by WSDOT.¹ The Eastern Washington Gateway Railroad Company ("EWGR") and US Rail Partners, LTD ("USRP") are filing companion petitions in Finance Docket No. 35029 and Finance Docket No. 35030 seeking a similar expedited effective

¹ The operator selected by WSDOT for the P&I Branch Line is the Washington and Idaho Railway, Inc. (WIR), who is currently providing freight rail service on the line as a contractor on the line. Failure to grant WSDOT's request for expedited approval may result in an interruption in service if the WIR must stop its existing service pending approval of the notices of exemption related to this transaction.

date for its notices of exemption to lease and operate the line under 49 C.F.R. §1150.31 and for a continuance in control class exemption under 49C F.R. §1180 2(d)(2).

On May 9, 2007, WSDOT filed in Finance Docket No 35024 Notice of Exemption pursuant to 49 C.F.R. Part 1150, Subpart D--Exempt Transactions, to acquire certain physical assets and operating rights of eight (8) rail lines and the underlying rights-of-way from PCC and for a request to waive the filing fee pursuant to 49 C F R §1002.2(e)(1).² PCC is owned by Watco Companies, Inc ("WATCO"), a short-line railroad holding company based in Pittsburg, Kansas.³ On May 11, 2007, WSDOT and the PCC executed documents connected with the acquisition clearly stating the PCC's intention to cease further operation on the P&L and the CW Branch Lines effective June 1, 2007. These documents are consistent with PCC's previous statements that it does not want to continue operation on the P&L and CW Branch Lines after June 1, 2007.

WSDOT has selected EWGR to lease and operate freight rail service on the CW Branch and the Washington and Idaho Railway, Inc (WIR) to operate on the P&L Branch Line. On May 9, 2007, WIR filed its notice of exemption to operate on the P&L Branch Line in Finance

² WSDOT's filings were delivered to the Board on May 10, 2007, but publication has been delayed pending review of the fee waiver request. By separate letter submitted with this filing, WSDOT is submitting a warrant for the filing fee for the notice of exemption and withdrawing its waiver request.

³ WATCO, a non-carrier, controls through stock ownership and management at least ten Class III rail carriers, including PCC. *Watco Companies, Inc – Continuance in Control Exemption – Mission Mountain Railroad, Inc.* (not published), served January 19, 2005, *See Watco Companies, Inc – Continuance in Control Exemption – Great Northwest Railroad, Inc.*, 69 FR 13121 (March 19, 2004)

Docket No. 35028.⁴ On May 16, 2007, EWGR and USRP filed companion notices of exemption in Finance Docket No. 35029 and Finance Docket No. 35030 to lease and operate the CW branch line under 49 C.F.R. §1150.31 and for a continuance in control class exemption under 49 C.F.R. §1180.2(d)(2).

Under the Board's recent decision in Public Participation in Class Exemption Proceedings, Ex Parte No. 659 (STB served October 19, 2006) ("Public Participation"), those exemptions will become effective thirty days after filing. See 49 C.F.R. § 1150.32(b), 49 C.F.R. § 1180.4(g)(1)

WSDOT will acquire PCC's right, title, and interest in certain tracks, track materials, the underlying rights-of-way and the operating rights of eight rail lines located in the state of Washington, generally sub-divided into three branches: The CW branch, the P&L branch, and the PV-Hooper branch. The total distance of these branch lines is approximately 296 miles. PCC will retain an existing exclusive rail freight easement under and through an existing lease from WSDOT to provide service on the PV-Hooper branch. Beginning no sooner than June 1, 2007, WSDOT will lease operating rights on the P&L and CW Branches to third party operators under contract awarded by public bid. WSDOT will retain a residual common carrier obligation.⁵

⁴ In its notice of exemption, WIR indicated that "WSDOT has selected WIR to operate the P&L Branch, effective June 1, 2007, if possible, or the earliest possible date after June 1, 2007. The proposed time schedule for consummation of the transaction. WSDOT requests that WIR consummate this transaction on June 1, 2007, if authorized by this Board. WIR has agreed to do so, subject to negotiation of an acceptable interchange agreement with BNSF Railway." Washington & Idaho Railway, Inc. – Operation Exemption—Washington State Department of Transportation, Finance Docket No. 35028 (Filed May 9, 2007), at 2-3

⁵ WSDOT will acquire a residual common carrier obligation on the CW Line and the P&L Line, and is not seeking a finding under Maine DOT -- Acq. Exempt -- Maine Central R. Co., 8 I.C.C.2d 835 (1991) that its acquisition of the CW Line is outside the Board's jurisdiction

The purchase of these rail lines and lease of the CW Line to EWGR and the P&L to WIR culminates a long-standing effort by WSDOT to acquire and preserve rail service on the line. See Exhibit A (WSDOT December, 2006 quarterly report on CW Line project, reviewing developments since initial legislative action on project in 2004). The CW Line has been the subject of surcharges, embargoes and a prior complaint proceeding at the STB, see State of Washington v. Palouse River and Coulee City Railroad, Inc., Finance Docket No. 34892 (STB served August 24, 2006), and the current transactions will help assure the availability of adequate rail transportation for the agricultural shippers and communities on the line in the future.

PCC has advised WSDOT that it will cease providing rail service on the CW Line as of June 1, 2007. EWGR believes it can be prepared to commence operations on the line on Monday, June 4, 2007, which would limit any service interruption to a weekend. Because EWGR's and USRP's notices of exemption would not otherwise be effective until June 15, 2007, however, shippers face a two-week gap in service unless the effective dates for WSDOT's notice of exemption (and the notices filed by EWGR and USRP in Finance Docket No. 35029 and Finance Docket No. 35030 and the notice by WIR in Finance Docket No. 35028) are expedited. WSDOT thus requests partial revocation of the class exemptions invoked by these notices to allow an eleven-day reduction of the effectiveness period of EWGR's notice, from thirty to nineteen days, and WIR's notice from thirty days to twenty-two days.

Prior to the Board's action in Public Participation, the notices of exemption filed by WSDOT, EWGR and WIR would have been effective in seven days. The expedited effective date sought in this petition will still provide nearly three times the notice of the old rules. As indicated above, the state's plans for the P&L and CW Branch Lines are long-standing and widely known, and a press release announcing WIR as the P&L Line operator and EWGR's

selection as the CW Line operator was issued by WSDOT on May 4, 2007. See Exhibit B. Prior to proceeding with the purchase and issuance of a request for proposal for operators, WSDOT personnel and consultants have had extensive contact with the shippers on the P&L and CW Branch Lines, and they are well aware of the general nature of the transactions involved transferring ownership of the rail lines from the PCC to WSDOT.

WSDOT has discussed this matter with the representatives of the PCC, and PCC has indicated no objection to a shortened effective date for the WSDOT, EWGR and WIR notices of exemption. WSDOT is aware of no party that would oppose or seek to stay the transactions, which are essential for the continuation of rail service on the lines.

While adequate notice to state governmental entities has frequently been a focus of line-sale class exemptions, here it is the state itself which is initiating the transactions. Cf. Class Exemption -- Acq. & Oper. of R. Lines Under 49 U.S.C. 10901, 1 I.C.C. 2d 810, 816 (1985), aff'd sub nom. Illinois Commerce Comm'n v. ICC, 817 F.2d 145 (D.C. Cir. 1987).

WSDOT is serving this petition on EWGR, USRP, PCC, BNSF Railway Company (the interchanging rail carrier at Cheney), WIR and all known shippers on the P&L and CW Branch Lines. Even with a shortening of the otherwise applicable effectiveness period, all interested parties will have adequate notice of the proposed transactions.

In appropriate circumstances, this agency has previously granted similar requests to shorten the effectiveness date of notices of exemption for branch-line transactions. Ohio & Pennsylvania Railroad Company -- Lease and Operation Exemption -- P&LE Properties, Inc., Finance Docket No. 32711 (ICC served June 23, 1995).⁶ Given the unique circumstances

⁶ In Ohio & Pennsylvania, the Interstate Commerce Commission granted the requested relief through a "waiver" of the "7-day pre-effectiveness requirement," rather than by a partial revocation of the relevant class exemption. EWGR and USRP are of course agreeable to the use of either process here.

involving the P&L and CW Line, the need to avoid a gap in rail service, and the widespread actual notice already provided about the proposed transactions, expediting the effective date for the notices of exemption is warranted here as well.

WHEREFORE, WSDOT respectfully requests that the Board partially revoke the class exemptions at 49 C F R § 1150.31, et seq. and 49 C.F.R. § 1180.2(d)(2) invoked by WSDOT, in Finance Docket No 35024, and allow the notices of exemption filed by WSDOT to become effective on June 4, 2007.

Respectfully submitted,

By

MARK S LYON

Assistant Attorney General

Office of the Attorney General

7141 Cleanwater Drive SW

Tumwater, WA 98501-6503

(360) 586-0641

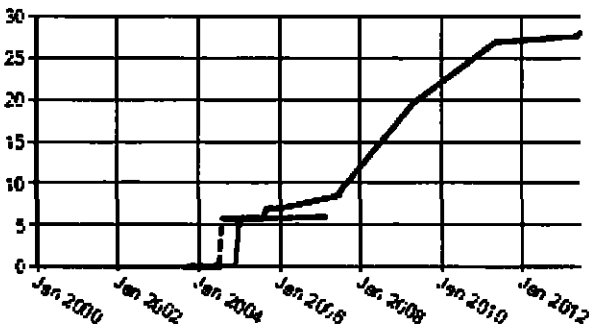
Attorney for WASHINGTON STATE

DEPARTMENT OF TRANSPORTATION

Dated May 18, 2007

Rail - Palouse River and Coulee City RR - Acquisition and Rehabilitation **Washington State Department of Transportation**

Quarterly Project Report Update for Quarter Ending December 2006

Project Title & Location Palouse River & Coulee City RR Acquisition -- Grant, Lincoln, Spokane, Whitman, & Adams Counties			Project Description Purchase 296-mile Palouse River and Coulee City RR, preserving the state's largest grain-hauling system, which impacts 1,450 existing and 150 potential jobs. Also, keeps over 28,000 heavy truck loads per year off state highways		
Contractor/Consultant Watco Transportation Services Inc. d/b/a/ Palouse River and Coulee City Railroad (PCC), Rosalia, WA					
Recent Progress The 2004 Legislature appropriated funds to purchase the CW branch of the PCC that is owned by Watco Companies, Inc. In September 2005, the owner withdrew the property from the sale, claiming that the scrap value of the railroad had increased substantially. Negotiations have resulted in resumed interim operations on the CW line until June 2007. The due date for completing a Memorandum of Understanding with Watco was October 31, 2006. This date was not met due to difficulty in identifying and classifying the real estate properties associated with the sale. All other elements of the pending MOU have been established and we are now anticipating that the real estate element will be resolved in January 2007. Due to the increased cost of acquisition and interim operations of the PCC, the amount of funding available for the rehabilitation of the system may be no longer sufficient to complete the project as originally scoped. The rehabilitation plan will need to be reviewed to make appropriate adjustments to stay within the original budget.					
Design Construction Impacts Implementation of an operating agreement subsequent to the purchase of the right of way					
Environmental Impacts / Compliance As the railroad is already in operation, no environmental compliance is required.			Impacts to Traffic Purchase of the railroad will ensure continued availability of lower cost local rail service in eastern Washington.		
Project Milestones	Scheduled	Attained	Milestone Outlook		
Phase 1 Purchase Complete	Jun 2004	Nov 2004			
Phase 2 Purchase Complete	Aug 2005		Date was not met due to negotiation-related delays		
Project Cost Summary	Dollars in millions	Percent of Total	Planned vs Actual Expenditures (Total Project Cost) --- Planned --- Revised Plan — Actual		
Preliminary Engineering					
Right-of-Way					
Construction	\$28.11	100%			
Funded Project Costs	\$28.11	100%			
Nickel funds included in above costs	\$28.11	100%			
2005 Transportation Partnership Account					

For more information, go to www.wsdot.wa.gov/projects

Mike Rowsell, Freight Project Manager, 360-705-7930, Email RowsellM@wsdot.wa.gov, or Scott Witt, WSDOT Freight Strategy & Policy Office, 360-705-6903, E-mail WittS@wsdot.wa.gov

Exhibit A



WSDOT News

WSDOT Selects Operators for Eastern Washington Railroad

Local Information

- Transit
- State Airports
- Special Needs Transportation
- Transportation Demand Management
- Agency Council on Coordinated Transportation

Date: Friday, May 04, 2007

Contact: Mike Rowsell, WSDOT, (360) 705-7930, RowsweM@wsdot.wa.gov

Scott Witt, WSDOT, (360) 705-6903, WittS@wsdot.wa.gov

OLYMPIA – The Washington State Department of Transportation (WSDOT) selected US Rail Partners Ltd. and the Washington and Idaho Railway Inc. as the operators of two branches of the Palouse River Coulee City (PCC) railroad.

The PCC is a 300-mile freight rail system, the second largest system in the state, providing local service to over 70 rail-dependent companies and serving hundreds of eastern Washington farmers. The three branches of the railroad are the PV Hooper line from Hooper to Thornton and Pullman, the CW line from Coulee City to Cheney and Spokane, and the P&L line from Marshall to Pullman.

The state of Washington expects to finalize the purchase of the railroad from Watco later this month. The state's ownership of the PCC railroad will provide a unique opportunity to create a viable, competitive railroad system that will serve Washington farmers and manufacturers for years to come. As part of the agreement, Watco will continue to operate the PV Hooper line, but will no longer operate the other two branches after May 31.

WSDOT will oversee operations of the PCC freight railroad starting June 1. To ensure continued operations, WSDOT solicited proposals in March from qualified companies to operate and maintain the CW and P&L lines. WSDOT evaluated proposals from seven companies competing for one or both of the branch lines.

US Rail Partners Ltd., headquartered in Illinois, was selected to operate the CW Line under the name of Eastern Washington Gateway Railroad. The operator will work with its affiliates on the new service for locomotive and railcar leasing, sales, track maintenance, and rail-to-truck transloading. "A team of business development and operating staff will soon arrive in Washington to begin working with customers and to develop the needed operations base," said John Howell, company president. "June 18 is a target date for beginning operations."

Washington and Idaho Railway Inc., located in Lewiston, Idaho, currently operates the P&L Line under a sublease from Watco and will continue operations. The company is affiliated with the BG & CM Railroad operating in Idaho and shares office staff and personnel as needed. "We have a good source of track materials so we'll be able to maintain the rail effectively," said Stan Patterson, company president. "We intend to continue the excellent service we have been providing and to aggressively build business for the future."

WSDOT is finalizing an operating agreement with each railroad company and rail operations will start in June. For more information on the PCC Railroad, visit www.wsdot.wa.gov/Projects/Rail/PCC_Acquisition

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Exhibit B



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 35024

**STATE OF WASHINGTON, DEPARTMENT OF TRANSPORTATION
- ACQUISITION EXEMPTION -
PALOUSE RIVER AND COULEE CITY RAILROAD, INC**

**ENTERED
Office of Proceedings
MAY 21 2007
Part of
Public Record**

DECLARATION OF SERVICE

I, LISA SAVOIA, hereby certify that on the 18th day of May, 2007, I caused to be sent by overnight mail via Federal Express, the original and ten copies of the PETITION TO PARTIALLY REVOKE CLASS EXEMPTION AND EXPEDITE EFFECTIVE DATE, with copies of all accompanying documents, as well as the original of a transmittal letter and this Declaration of Service to the Surface Transportation Board as follows

**Mr. Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street NW, Suite 715
Washington DC 20423-0001**

I further caused on the 18th day of May, 2007, to be placed in the United States mail, postage prepaid, a copy of the PETITION TO PARTIALLY REVOKE CLASS EXEMPTION AND EXPEDITE EFFECTIVE DATE, with copies of all accompanying

documents, as well as a copy of a transmittal letter to the Surface Transportation Board
and this Declaration of Service, to.

Craig R. Richey, Esq.
Palouse River & Coulee City Railroad, Inc.
315 West 3rd Street
Pittsburg, KS 66762

Charles H. Montange, Esq
426 NW 162nd Street
Seattle WA 98177

William Sipple
Fletcher & Sipple LLC
29 North Wacker Dr., Suite 920
Chicago, IL 60606-2875

Almira Farmers Warehouse Company
P.O. Box 196
Almira, WA 99103

Bennet Lumber Products Inc
P. O. Box 49
Princeton ID 83857

Co-Ag Producers Inc.
P. O. Box 295
Rosalia WA 99170

Central Washington Grain Growers, Inc.
P.O. Box 649
Waterville, WA 98858

Davenport Union Warehouse Company
P.O. Box 149
Davenport, WA 99122

Isaak Brothers
P O. Box 953
Coulee City, WA 99115

Lincoln County Economic Development Council
P.O. Box 1305
Davenport, WA 99122

Odessa Union Warehouse Company
P.O. Box 247
Odessa, WA 99159

Reardan Grain Growers, Inc
P.O. Box 185
Reardan, WA 99029

Palouse Grain Growers, Inc.
P O Box 118
Palouse WA 99161

Ritzville Warehouse Co.
201 E First Avenue
Ritzville WA 99169

The McGregor Company
P O. Box 740
Colfax WA 99111

Whitman County Growers, Inc
P. O. Box 151
Colfax WA 99111


Spokane Seed Co.
P. O. Box 11007
Spokane WA 99211-1007

Robert Boersma
P. O. Box 545
Othello WA 99344

Mr. Christopher M. Randall
Director - Shortline Development
BNSF Railway Company
2650 Lou Menk Drive
Fort Worth, TX 76131-2830

I declare under the penalty of perjury under the laws of the State of Washington,
that the above is true and correct.

DATED this 18th day of May, 2007 at Tumwater, Washington.



Lisa Savoia, Legal Assistant